

Senate Bill No. 1059

CHAPTER 604

An act to amend Section 6105 of the Commercial Code, and to amend Sections 72, 220.5, 531.9, 533, and 1610.8 of, and to add Sections 256.6, 256.7, and 276.5 to, the Revenue and Taxation Code, relating to property taxation.

[Approved by Governor September 28, 2003. Filed
with Secretary of State September 29, 2003.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1059, Committee on Revenue and Taxation. Property taxation.

(1) Existing law requires a buyer that is a party to a bulk sale, as defined, to provide a notice of the sale to the county tax collector in the county or counties in which the property that is involved in the sale is located. Existing law requires a buyer to include a property statement, as specified, with this notice if it is delivered between March 1 and the last Friday in May.

This bill would change the dates for which a property statement is required to be sent with a bulk sale notice to notices delivered between January 1 and May 7.

(2) Existing law requires a city or a county to provide to county assessors, among other documents, copies of any building permits or certificates of occupancy issued by those entities.

This bill would authorize the board of supervisors of a county to enact, by a majority vote of its entire membership, an ordinance that requires the local agency that approves a tentative map, as provided, to submit a copy of the map, and any conditions of approval for the map, to the county assessor as soon as possible after the map is filed.

(3) Existing law exempts from property taxation aircraft of historical significance, as defined, only if the assessee is an individual owner of the aircraft who does not hold the aircraft for the purposes of selling it, the assessee does not use the aircraft for commercial purposes or general transportation, and the aircraft is available for display to the public, as provided. Existing law requires an assessee that claims this exemption to file an affidavit regarding the aircraft, which affidavit is provided by the assessor.

This bill would require an assessee that applies for this exemption to attach to that application a certificate of attendance from the event coordinator of the event at which the aircraft was displayed to the public. This bill would also specify that if a person claiming this exemption fails

to file the required affidavit before February 15 of the fiscal year in which the exemption is sought, but files that affidavit on or before August 1, the exemption amount shall be reduced by 20%.

(4) Existing law, pursuant to a constitutional mandate, exempts from property taxation property held or used exclusively for nonprofit cemetery purposes, as specified.

This bill would require county assessors to annually notify, in the manner prescribed by the State Board of Equalization, those assesseees that claimed this exemption in the prior fiscal year, as specified. This bill would also require that this notice contain a separate form that queries assesseees regarding the current status of the property, as provided. This bill would also provide that if an assessee does not return the query form, that assessee may be subject to an onsite inspection of the property by the assessor. By requiring county assessors to provide this additional notice, this bill would impose a state-mandated local program.

This bill would provide, subject to certain conditions, that an affidavit claiming the cemetery exemption is not required to be filed in order to receive the exemption for any cemetery that exists, or is discovered to exist, in the unincorporated area of a county for which the assessor is unable to identify the legal cemetery authority, as defined, for that cemetery. The bill would also require that any tax, penalty, or interest on these cemeteries be canceled.

(5) Existing property tax law provides for assessments to be made on property outside the regular assessment period if that property escaped assessment during the regular assessment period, as provided. Existing law requires county assessors to notify those subject to these assessments and requires that this notice provide the name and address of a person at the assessor's office that has knowledge of the escape assessment so that those subject to the assessment can contact that person with questions regarding the assessment. Existing law also requires county auditors to enter escape assessments on the county tax roll, as provided.

This bill would require that notices of escape assessments include only the telephone number of the assessor's office. This bill would also authorize county assessors to make entries of escape assessments on either a hard copy or an electronic version of the county tax roll.

(6) Existing law requires the county board of equalization to equalize the assessment of property by specified methods, including the canceling of assessments of property not subject to taxation.

This bill would instead require the canceling of improper assessments.

(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that



reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

The people of the State of California do enact as follows:

SECTION 1. Section 6105 of the Commercial Code is amended to read:

6105. In order to comply with subdivision (b) of Section 6104 each of the following shall be satisfied:

(a) The notice shall comply with each of the following:

(1) State that a bulk sale is about to be made.

(2) State the name and business address of the seller together with any other business name and address listed by the seller (subdivision (a) of Section 6104) and the name and business address of the buyer.

(3) State the location and general description of the assets.

(4) State the place and the anticipated date of the bulk sale.

(5) State whether or not the bulk sale is subject to Section 6106.2 and, if so subject, the matters required by subdivision (f) of Section 6106.2.

(b) At least 12 business days before the date of the bulk sale, the notice shall be:

(1) Recorded in the office of the county recorder in the county or counties in this state in which the tangible assets are located and, if different, in the county in which the seller is located (paragraph (2) of subdivision (a) of Section 6103).

(2) Published at least once in a newspaper of general circulation published in the judicial district in this state in which the tangible assets are located and in the judicial district, if different, in which the seller is located (paragraph (2) of subdivision (a) of Section 6103), if in either case there is one, and if there is none, then in a newspaper of general circulation in the county in which the judicial district is located.

(3) Delivered or sent by registered or certified mail to the county tax collector in the county or counties in this state in which the tangible assets are located. If delivered during the period from January 1 to May 7, inclusive, the notice shall be accompanied by a completed business property statement with respect to property involved in the bulk sale pursuant to Section 441 of the Revenue and Taxation Code.

If the tangible assets are located in more than one judicial district in this state, the publication required in paragraph (2) shall be in a



newspaper of general circulation published in the judicial district in this state in which a greater portion of the tangible assets are located, on the date the notice is published, than in any other judicial district in this state and, if different, in the judicial district in which the seller is located (paragraph (2) of subdivision (a) of Section 6103). As used in this subdivision, “business day” means any day other than a Saturday, Sunday, or day observed as a holiday by the state government.

SEC. 2. Section 72 of the Revenue and Taxation Code is amended to read:

72. (a) A copy of any building permit issued by any city, county, or city and county shall be transmitted by each issuing entity to the county assessor as soon as possible after the date of issuance.

(b) A copy of any certificate of occupancy or other document that shows the date of completion of new construction issued or finalized by any city, county, or city and county, shall be transmitted by each entity to the county assessor within 30 days after the date of issuance or finalization.

(c) At the time an assessee files, or causes to be filed, an approved set of building plans with the city, county, or city and county, a scale copy of the floor plans and exterior dimensions of the building designated for the county assessor shall be filed by the assessee or his or her designee. The scale copy shall be in sufficient detail to allow the assessor to determine the square footage of the building and, in the case of a residential building, the intended use of each room. An assessee, or his or her designee, where multiple units are to be constructed from the same set of building plans, may file only one scale copy of floor plans and exterior dimensions, so long as each application for a building permit with respect to those building plans specifically identifies the scale copy filed pursuant to this section. However, where the square footage of any one of the multiple units is altered, an assessee, or his or her designee, shall file a scale copy of the floor plan and exterior dimensions that specifically identifies the alteration from the previously filed scale copy. The receiving authority shall transmit that copy to the county assessor as soon as possible after the final plans are approved.

(d) The board of supervisors of a county may enact, by a majority vote of its entire membership, an ordinance that requires the local agency that approves the tentative map or maps, and any conditions of approval for the tentative map or maps that are filed with a county or a city in that county, to submit a copy of the map or maps, and any conditions of approval for the tentative map or maps, to the county assessor as soon as possible after the map or maps are filed. The ordinance may require that the map or maps be provided to the county assessor in an electronic format, if available in that form.



SEC. 3. Section 220.5 of the Revenue and Taxation Code is amended to read:

220.5. (a) Aircraft of historical significance shall be exempt from taxation.

(b) The exemption provided in subdivision (a) applies only if all of the following conditions are satisfied:

(1) The assessee is an individual owner who does not hold the aircraft primarily for purposes of sale.

(2) The assessee does not use the aircraft for commercial purposes or general transportation.

(3) The aircraft is available for display to the public at least 12 days during the 12-month period immediately preceding the lien date for the year for which the exemption is claimed. If the aircraft was first made available for public display less than 12 days prior to the lien date, the exemption may be granted if the claimant certifies in writing that the aircraft will be made available for public display at least 12 days during the 12-month period commencing with the first day the property was made available for public display. When applying for an exemption pursuant to this section, the claimant shall attach to that application a certificate of attendance from the event coordinator of the event at which the aircraft was displayed as required by this paragraph.

(c) When claiming an exemption pursuant to this section, the claimant shall provide all information required and answer all questions contained in an affidavit furnished by the assessor. The claimant shall sign and swear to the accuracy of the contents of the affidavit before either a notary public or the assessor or his or her designee, at the claimant's option. The assessor may require additional proof of the information or answers provided in the affidavit before allowing the exemption.

(d) For purposes of this section, "aircraft of historical significance" means any aircraft that is an original, restored, or replica of a heavier than air powered aircraft that is 35 years or older or any aircraft of a type or model of which there are fewer than five in number known to exist worldwide.

(e) A fee of thirty-five dollars (\$35) shall be charged and collected by the assessor upon the initial application for an exemption pursuant to this section.

SEC. 4. Section 256.6 is added to the Revenue and Taxation Code, to read:

256.6. (a) (1) Prior to the lien date, the assessor shall annually mail a notice to every person or entity that received, in the immediately preceding fiscal year, the exemption provided by Section 204.



(2) The board shall prescribe the form for the annual notice described in paragraph (1), which form shall specify the following:

(A) The circumstances under which the property may be disqualified from exemption.

(B) That the person or entity has a duty to inform the assessor if the property no longer qualifies for the exemption.

(b) At the same time the notice described in subdivision (a) is mailed, the assessor shall include with that notice a card that may be returned to the assessor by the person or entity receiving the notice, which card shall be in the following form:

To all persons and entities that have received a nonprofit cemetery exemption for the ____ fiscal year.

QUESTION: Will the property to which the exemption applied in the ____ fiscal year continue to be used or held exclusively for the burial or other permanent deposit of the human dead or for the care, maintenance, or upkeep of that property or those dead in the ____ fiscal year?

____ yes ____ no

Signature: _____ Title: _____

Failure to return this card does not constitute a waiver of this exemption as specified by the California Constitution, but may result in an onsite inspection by the assessor to verify any exempt activity.

SEC. 5. Section 256.7 is added to the Revenue and Taxation Code, to read:

256.7. (a) Notwithstanding Sections 254, 256.5, and 256.6, an affidavit claiming the cemetery exemption, as provided for in subdivision (g) of Section 3 of Article XIII of the California Constitution and Section 204, is not required to be filed in order to receive the exemption for any cemetery that exists, or is discovered to exist, in the unincorporated area of a county for which the assessor is unable to identify the legal cemetery authority, as defined in Section 7018 of the Health and Safety Code, that may by law claim the exemption for that cemetery, if both of the following apply:

(1) The cemetery was used by residents of the state prior to the year 1900.

(2) The cemetery is no longer used for current or future interments.

(b) Any tax, penalty, or interest imposed upon a cemetery subject to this section shall be canceled pursuant to Article 1 (commencing with Section 4985) of Chapter 4 of Part 9, as if it had been levied or charged erroneously.



SEC. 6. Section 276.5 is added to the Revenue and Taxation Code, to read:

276.5. If a person claiming the exemption of an aircraft of historical significance under Section 220.5 fails to file the affidavit required by that section by 5 p.m. on February 15 of the fiscal year for which the exemption is claimed, but files that affidavit on or before the following August 1, the assessment shall be reduced by an amount equal to 80 percent of the reduction that would have been allowed had the affidavit been timely filed.

SEC. 7. Section 531.8 of the Revenue and Taxation Code is amended to read:

531.8. No escape assessment shall be enrolled under this article before 10 days after the assessor has mailed or otherwise delivered to the affected taxpayer a “Notice of Proposed Escape Assessment” with respect to one or more specified tax years. The notice shall prominently display on its face the following heading:

“NOTICE OF PROPOSED ESCAPE ASSESSMENT”

The notice shall contain all of the following:

(a) The amount of the proposed escape assessments for each tax year at issue.

(b) The telephone number of the assessor’s office to allow a taxpayer to contact that office with respect to the proposed escape assessment or assessments.

SEC. 8. Section 533 of the Revenue and Taxation Code is amended to read:

533. (a) (1) Assessments made pursuant to Article 3 (commencing with Section 501) of this chapter or pursuant to this article shall be entered on the roll for the current assessment year, as defined in Section 118, and, if this is not the roll for the assessment year in which the property escaped assessment, the entry shall be followed with “Escaped assessment for year ____ pursuant to Sections ____ of the Revenue and Taxation Code.”

(2) The assessor may make the entries described in paragraph (1) on either the hard copy of the roll or the electronic version of the roll, as determined by the assessor.

(b) (1) If the assessments are made as a result of an audit that discloses that property assessed to the party audited has been incorrectly assessed either for a past tax year for which taxes have been paid and a claim for refund is not barred by Section 5097 or for any tax year for which the taxes are unpaid, the tax refunds resulting from the incorrect assessments shall be an offset against proposed tax liabilities, including



accumulated penalties and interest, resulting from escaped assessments for any tax year covered by the audit.

(2) Beginning with the 1981–82 fiscal year, assessment for the current and prior year shall be entered using a 100 percent assessment ratio and the tax rate for years prior to the 1981–82 fiscal year will be divided by four.

(3) If these tax refunds exceed any proposed tax liabilities, including accumulated penalties and interest, the party audited shall be notified by the tax collector of the amount of the excess and of the fact that a claim for cancellation or refund may be filed with the county as provided by Section 5096 or 5096.7. If the assessment caused an excess payment of taxes and therefore resulted in an overpayment by the state for property tax relief as provided by Section 219, then subsequent subventions for property tax relief shall be reduced by the amount of the overpayment.

SEC. 9. Section 1610.8 of the Revenue and Taxation Code, as amended by Chapter 199 of the Statutes of 2003, is amended to read:

1610.8. After giving notice as prescribed by its rules, the county board shall equalize the assessment of property on the local roll by determining the full value of an individual property, by assessing any taxable property that has escaped assessment, correcting the amount, number, quantity, or description of property on the local roll, canceling improper assessments, and by reducing or increasing an individual assessment, as provided in this section. The full value of an individual property shall be determined without limitation by reason of the applicant's opinion of value stated in the application for reduction in assessment pursuant to subdivision (a) of Section 1603.

The applicant for a reduction in an assessment on the local roll shall establish the full value of the property by independent evidence. The records of the assessor may be used as part of such evidence.

The county board shall make a determination of the full value of each parcel for which an application for equalization is made.

SEC. 10. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

